

AMENDED IN ASSEMBLY MARCH 10, 2014

AMENDED IN ASSEMBLY JUNE 18, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 419

Introduced by Senator Block

February 21, 2013

An act to amend Sections 1203.2 and 4019 of, and to add and repeal Section 1203.35 of, Sections 1214 and 2085.5 of the Penal Code, relating to supervised persons restitution.

LEGISLATIVE COUNSEL'S DIGEST

SB 419, as amended, Block. ~~Supervised persons: flash incarceration. Restitution: collection of fines and fees.~~

(1) Existing law requires the court to order criminal defendants to pay restitution to the victim or victims as well as a restitution fine. Existing law makes any portion of a restitution fine or restitution fee that remains unsatisfied after a defendant is no longer on probation, parole, postrelease community supervision or mandatory supervision, or completed diversion enforceable by the California Victim Compensation and Government Claims Board, as specified, and authorizes a local collection program to continue to enforce restitution orders once a defendant is no longer on probation, postrelease community supervision, or mandatory supervision.

This bill, in addition, would make restitution fines and fees that remain unsatisfied after a person has completed a full term in custody in a county jail enforceable by the California Victim Compensation and

Government Claims Board and would authorize a local collection program to continue to collect those fines and fees.

(2) Existing law requires the Secretary of the Department of Corrections and Rehabilitation to collect restitution fines and fees from inmates and authorizes the collection of those fines and fees from inmates in county jails by an agency designated by the county board of supervisors. Existing law authorizes the secretary, the local agency designated by the county board of supervisors, or, under specified circumstances, a local collection program to collect restitution fines and fees from parolees. Existing law authorizes the secretary and the local agency to deduct and retain administrative fees for fines collected from parolees.

This bill would authorize the secretary, the agency designated by the county board of supervisors, or, under specified circumstances, a local collection program to collect restitution fines and fees from people on postrelease community supervision, mandatory supervision, and county jail inmates who have served a completed sentence in a county jail and to deduct and retain administrative fees for those collections.

~~(1) Existing law authorizes a probation officer, parole officer, or peace officer, at any time during the period of supervision of a person released on probation, conditional sentence, summary probation, or mandatory supervision, or when that person is subject to revocation of postrelease community supervision or revocation of parole supervision, to, without warrant or other process and at any time until the final disposition of the case, rearrest the supervised person and bring him or her before the court or the court may, in its discretion, issue a warrant for that person's rearrest. Existing law additionally authorizes, upon rearrest or upon the issuance of a warrant for rearrest, the court to revoke and terminate the supervision of the person if the interests of justice so require and the court, in its judgment, has reason to believe that the person has, among other things, violated any of the conditions of his or her supervision. Existing law specifies that nothing in those provisions affects the authority of the supervising agency to impose intermediate sanctions, including flash incarceration, to persons supervised on parole or postrelease community supervision, as specified.~~

~~This bill would specify that nothing in the above provisions affects the authority of the supervising agency to impose intermediate sanctions, including flash incarceration, not only to persons supervised on parole or postrelease community supervision, as specified, but also to persons on court-ordered probation or mandatory supervision.~~

~~(2) Existing law requires postrelease community supervision to include specified conditions, including, among other things, that the person obey all laws and waive any right to a court hearing prior to the imposition of a period of flash incarceration in a county jail of not more than 10 consecutive days for any violation of his or her postrelease supervision conditions. Existing law permits each county agency responsible for postrelease supervision to determine additional specified appropriate conditions of supervision consistent with public safety, including the use of continuous electronic monitoring, and flash incarceration in a county jail. Existing law encourages periods of flash incarceration as one method of punishment for violations of an offender's condition of postrelease supervision.~~

~~This bill would, until January 1, 2018, require the court, in any case where the court grants probation or imposes a sentence that includes mandatory supervision, to authorize the agency responsible for that probation or mandatory supervision to use flash incarceration for any violation of the conditions of that probation or mandatory supervision if, at the time of granting probation or ordering mandatory supervision, the court obtains from the defendant a waiver to a court hearing prior to the imposition of a period of flash incarceration. The bill would exempt from the imposition of flash incarceration under these circumstances any defendant convicted of a nonviolent drug possession offense who receives probation.~~

~~(3) Existing law requires that for each 4-day period in which a prisoner is confined in or committed to a facility, one day be deducted from his or her period of confinement unless it appears by the record that the prisoner has refused to satisfactorily perform labor and an additional day be deducted from his or her period of confinement unless he or she has not satisfactorily complied with the reasonable rules and regulations of the facility. Existing law specifies that no credits may be earned for periods of flash incarceration imposed on persons subject to parole supervision or postrelease supervision.~~

~~This bill would prohibit a person on probation or subject to mandatory supervision from earning credits for periods of flash incarceration.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1214 of the Penal Code is amended to
2 read:

3 1214. (a) If the judgment is for a fine, including a restitution
4 fine ordered pursuant to Section 1202.4, 1202.44, or 1202.45, or
5 Section 1203.04 as operative on or before August 2, 1995, or
6 Section 13967 of the Government Code, as operative on or before
7 September 28, 1994, with or without imprisonment, or a diversion
8 restitution fee ordered pursuant to Section 1001.90, the judgment
9 may be enforced in the manner provided for the enforcement of
10 money judgments generally. Any portion of a restitution fine or
11 restitution fee that remains unsatisfied after a defendant is no longer
12 on probation, parole, postrelease community supervision pursuant
13 to Section 3451, *or mandatory supervision—under pursuant to*
14 subparagraph (B) of paragraph (5) of subdivision (h) of Section
15 1170, *after a full term in custody pursuant to subparagraph (A)*
16 *of paragraph (5) of subdivision (h) of Section 1170, or—has*
17 *completed after completing* diversion is enforceable by the
18 California Victim Compensation and Government Claims Board
19 pursuant to this section. Notwithstanding any other provision of
20 law prohibiting disclosure, the state, as defined in Section 900.6
21 of the Government Code, a local public entity, as defined in Section
22 900.4 of the Government Code, or any other entity, may provide
23 the California Victim Compensation and Government Claims
24 Board any and all information to assist in the collection of unpaid
25 portions of a restitution fine for terminated probation or parole
26 cases, or of a restitution fee for completed diversion cases. For
27 purposes of the preceding sentence, “state, as defined in Section
28 900.6 of the Government Code,” and “any other entity” shall not
29 include the Franchise Tax Board. A local collection program may
30 continue to enforce restitution *fine* orders once a defendant is no
31 longer on probation, postrelease community supervision, or
32 mandatory supervision *or after a full term in custody pursuant to*
33 *subparagraph (A) of paragraph (5) of subdivision (h) of Section*
34 *1170.*

35 (b) In any case in which a defendant is ordered to pay restitution,
36 the order to pay restitution (1) is deemed a money judgment if the
37 defendant was informed of his or her right to have a judicial
38 determination of the amount and was provided with a hearing,

1 waived a hearing, or stipulated to the amount of the restitution
2 ordered, and (2) shall be fully enforceable by a victim as if the
3 restitution order were a civil judgment, and enforceable in the same
4 manner as is provided for the enforcement of any other money
5 judgment. Upon the victim's request, the court shall provide the
6 victim in whose favor the order of restitution is entered with a
7 certified copy of that order and a copy of the defendant's disclosure
8 pursuant to paragraph (5) of subdivision (f) of Section 1202.4,
9 affidavit or information pursuant to paragraph (6) of subdivision
10 (f) of Section 1202.4, or report pursuant to paragraph (8) of
11 subdivision (f) of Section 1202.4. The court also shall provide this
12 information to the district attorney upon request in connection with
13 an investigation or prosecution involving perjury or the veracity
14 of the information contained within the defendant's financial
15 disclosure. In addition, upon request, the court shall provide the
16 California Victim Compensation and Government Claims Board
17 with a certified copy of any order imposing a restitution fine or
18 order and a copy of the defendant's disclosure pursuant to
19 paragraph (5) of subdivision (f) of Section 1202.4, affidavit or
20 information pursuant to paragraph (6) of subdivision (f) of Section
21 1202.4, or report pursuant to paragraph (8) of subdivision (f) of
22 Section 1202.4. A victim shall have access to all resources available
23 under the law to enforce the restitution order, including, but not
24 limited to, access to the defendant's financial records, use of wage
25 garnishment and lien procedures, information regarding the
26 defendant's assets, and the ability to apply for restitution from any
27 fund established for the purpose of compensating victims in civil
28 cases. Any portion of a restitution order that remains unsatisfied
29 after a defendant is no longer on probation, parole, postrelease
30 community supervision under Section 3451, or mandatory
31 supervision imposed pursuant to subparagraph (B) of paragraph
32 (5) of subdivision (h) of Section 1170 *or after a full term in custody*
33 *pursuant to subparagraph (A) of paragraph (5) of subdivision (h)*
34 *of Section 1170* is enforceable by the victim pursuant to this
35 section. Victims and the California Victim Compensation and
36 Government Claims Board shall inform the court whenever an
37 order to pay restitution is satisfied. A local collection program may
38 continue to enforce victim restitution orders once a defendant is
39 no longer on probation, postrelease community supervision, or
40 mandatory supervision *or after completion of a full term in custody*

1 *pursuant to subparagraph (A) of paragraph (5) of subdivision (h)*
2 *of Section 1170.*

3 (c) Except as provided in subdivision (d), and notwithstanding
4 the amount in controversy limitation of Section 85 of the Code of
5 Civil Procedure, a restitution order or restitution fine that was
6 imposed pursuant to Section 1202.4 in any of the following cases
7 may be enforced in the same manner as a money judgment in a
8 limited civil case:

9 (1) In a misdemeanor case.

10 (2) In a case involving violation of a city or town ordinance.

11 (3) In a noncapital criminal case where the court has received
12 a plea of guilty or nolo contendere.

13 (d) Chapter 3 (commencing with Section 683.010) of Division
14 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply
15 to any of the following:

16 (1) A judgment for ~~any~~ court-ordered fines, forfeitures, penalties,
17 fees, or assessments.

18 (2) ~~Any~~ A restitution fine or restitution order imposed pursuant
19 to Section 1202.4, 1202.44, or 1202.45, or Section 1203.04, as
20 operative on or before August 2, 1995, or Section 13967 of the
21 Government Code, as operative on or before September 28, 1994.

22 (3) ~~Any~~ A diversion restitution fee ordered pursuant to Section
23 1001.90.

24 SEC. 2. *Section 2085.5 of the Penal Code is amended to read:*

25 2085.5. (a) In any case in which a ~~prisoner~~ *state prison inmate*
26 owes a restitution fine imposed pursuant to subdivision (a) of
27 Section 13967 of the Government Code, as operative prior to
28 September 28, 1994, subdivision (b) of Section 730.6 of the
29 Welfare and Institutions Code, or subdivision (b) of Section 1202.4,
30 the Secretary of the Department of Corrections and Rehabilitation
31 shall deduct a minimum of 20 percent or the balance owing on the
32 fine amount, whichever is less, up to a maximum of 50 percent
33 from the wages and trust account deposits of a ~~prisoner~~ *the state*
34 *prison inmate*, unless prohibited by federal law, and shall transfer
35 that amount to the California Victim Compensation and
36 Government Claims Board for deposit in the Restitution Fund in
37 the State Treasury. ~~Any~~ *The* amount ~~so~~ deducted shall be credited
38 against the amount owing on the fine. The sentencing court shall
39 be provided a record of the payments.

(b) (1) ~~When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, in~~ In any case in which a *county jail* prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the agency designated by the board of supervisors in the county where the *county jail* prisoner is incarcerated is authorized to deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and trust account deposits of a *county jail* prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. ~~Any~~ The amount ~~so~~ deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(2) If the board of supervisors designates the county sheriff as the collecting agency, the board of supervisors shall first obtain the concurrence of the county sheriff.

(c) In any case in which a ~~prisoner~~ *state prison inmate* owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4, the Secretary of the Department of Corrections and Rehabilitation shall deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the wages and trust account deposits of a ~~prisoner~~ *state prison inmate*, unless prohibited by federal law. The secretary shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. The sentencing court shall be provided a record of the payments made to victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(d) ~~When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, in~~ In any case in

1 which a *county jail* prisoner owes a restitution order imposed
2 pursuant to subdivision (c) of Section 13967 of the Government
3 Code, as operative prior to September 28, 1994, subdivision (h)
4 of Section 730.6 of the Welfare and Institutions Code, or
5 subdivision (b) of Section 1202.4, the agency designated by the
6 board of supervisors in the county where the *county jail* prisoner
7 is incarcerated is authorized to deduct a minimum of 20 percent
8 or the balance owing on the order amount, whichever is less, up
9 to a maximum of 50 percent from the county jail equivalent of
10 wages and trust account deposits of a *county jail* prisoner, unless
11 prohibited by federal law. The agency shall transfer that amount
12 to the California Victim Compensation and Government Claims
13 Board for direct payment to the victim, or payment shall be made
14 to the Restitution Fund to the extent that the victim has received
15 assistance pursuant to that program, or may pay the victim directly.
16 The sentencing court shall be provided a record of the payments
17 made to the victims and of the payments deposited to the
18 Restitution Fund pursuant to this subdivision.

19 (e) The secretary shall deduct and retain from the wages and
20 trust account deposits of a ~~prisoner~~ *state prison inmate*, unless
21 prohibited by federal law, an administrative fee that totals 10
22 percent of any amount transferred to the California Victim
23 Compensation and Government Claims Board pursuant to
24 subdivision (a) or (c). The secretary shall deduct and retain from
25 any ~~prisoner~~ *state prison inmate* settlement or trial award, an
26 administrative fee that totals 5 percent of any amount paid from
27 the settlement or award to satisfy an outstanding restitution order
28 or fine pursuant to subdivision (n), unless prohibited by federal
29 law. The secretary shall deposit the administrative fee moneys in
30 a special deposit account for reimbursing administrative and
31 support costs of the restitution program of the Department of
32 Corrections and Rehabilitation. The secretary, at his or her
33 discretion, may retain any excess funds in the special deposit
34 account for future reimbursement of the department's
35 administrative and support costs for the restitution program or may
36 transfer all or part of the excess funds for deposit in the Restitution
37 Fund.

38 (f) ~~When a prisoner is punished by imprisonment in a county~~
39 ~~jail pursuant to subdivision (h) of Section 1170, the~~ *The* agency
40 designated by the board of supervisors in the county where the

prisoner is incarcerated is authorized to deduct and retain from the county jail equivalent of wages and trust account deposits of a *county jail* prisoner, unless prohibited by federal law, ~~and an~~ administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (b) or (d). The agency is authorized to deduct and retain from ~~any a county jail~~ prisoner settlement or trial award, an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n), unless prohibited by federal law. The agency shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the agency. The agency is authorized to retain any excess funds in the special deposit account for future reimbursement of the agency's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(g) In any case in which a ~~parolee~~ *parolee postrelease offender* owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the secretary, ~~or, when a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, or the~~ agency designated by the board of supervisors in the county where the ~~prisoner is~~ *parolee postrelease offender* was incarcerated, may collect from the ~~parolee postrelease offender~~ any moneys owing on the restitution fine amount, unless prohibited by federal law. The secretary or the agency shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. ~~Any~~ The amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(h) In any case in which a ~~parolee~~ *parolee postrelease offender* owes a direct order of restitution, imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or paragraph (3) of subdivision (a) of Section 1202.4, the secretary, ~~or, when a prisoner is punished~~

1 ~~by imprisonment in a county jail pursuant to subdivision (h) of~~
2 ~~Section 1170~~, the agency designated by the board of supervisors
3 in the county where the ~~prisoner is~~ *postrelease offender* was
4 incarcerated, or a local collection program, may collect from the
5 ~~parolee or person previously imprisoned in county jail~~ *postrelease*
6 *offender* any moneys owing, unless prohibited by federal law. The
7 ~~secretary or, the agency, or the collection program~~ shall transfer
8 that amount to the California Victim Compensation and
9 Government Claims Board for direct payment to the victim, or
10 payment shall be made to the Restitution Fund to the extent that
11 the victim has received assistance pursuant to that program. The
12 sentencing court shall be provided a record of the payments made
13 ~~by the offender pursuant to this subdivision.~~

14 (i) ~~The secretary, or, when a prisoner is punished by~~
15 ~~imprisonment in a county jail pursuant to subdivision (h) of Section~~
16 ~~1170, or the agency designated by the board of supervisors in the~~
17 ~~county where the prisoner is incarcerated,~~ *postrelease offender*
18 *was incarcerated* may deduct and retain from ~~any~~ moneys collected
19 from ~~parolees~~ *postrelease offenders* an administrative fee that
20 totals 10 percent of any amount transferred to the California Victim
21 Compensation and Government Claims Board pursuant to
22 subdivision (g) or (h), unless prohibited by federal law. The
23 secretary shall deduct and retain from any settlement or trial award
24 of a parolee an administrative fee that totals 5 percent of any
25 amount paid from the settlement or award to satisfy an outstanding
26 restitution order or fine pursuant to subdivision (n), unless
27 prohibited by federal law. The agency is authorized to deduct and
28 retain from any settlement or trial award of a ~~parolee~~ *postrelease*
29 *offender* an administrative fee that totals 5 percent of ~~any~~ *an*
30 amount paid from the settlement or award to satisfy an outstanding
31 restitution order or fine pursuant to subdivision (n). The secretary
32 or the agency shall deposit the administrative fee moneys in a
33 special deposit account for reimbursing administrative and support
34 costs of the restitution program of the Department of Corrections
35 and Rehabilitation or the agency, as applicable. The secretary, at
36 his or her discretion, or the agency may retain any excess funds
37 in the special deposit account for future reimbursement of the
38 department's or agency's administrative and support costs for the
39 restitution program or may transfer all or part of the excess funds
40 for deposit in the Restitution Fund.

1 (j) When a ~~prisoner~~ *state prison inmate* has both a restitution
2 fine and a restitution order from the sentencing court, the
3 Department of Corrections and Rehabilitation shall collect the
4 restitution order first pursuant to subdivision (c).

5 (k) When a *county jail prisoner* is ~~punished by imprisonment~~
6 ~~in a county jail pursuant to subdivision (h) of Section 1170 and~~
7 ~~that prisoner~~ has both a restitution fine and a restitution order from
8 the sentencing court, if the agency designated by the board of
9 supervisors in the county where the *county jail* prisoner is
10 incarcerated collects the fine and order, the agency shall collect
11 the restitution order first pursuant to subdivision (d).

12 (l) When a ~~parolee~~ *postrelease offender* has both a restitution
13 fine and a restitution order from the sentencing court, the
14 Department of Corrections and Rehabilitation, ~~or, when the~~
15 ~~prisoner is punished by imprisonment in a county jail pursuant to~~
16 ~~subdivision (h) of Section 1170; or~~ the agency designated by the
17 board of supervisors in the county where the ~~prisoner is~~ *postrelease*
18 *offender was* incarcerated, may collect the restitution order first,
19 pursuant to subdivision (h).

20 (m) If an inmate is housed at an institution that requires food
21 to be purchased from the institution canteen for unsupervised
22 overnight visits, and if the money for the purchase of this food is
23 received from funds other than the inmate's wages, that money
24 shall be exempt from restitution deductions. This exemption shall
25 apply to the actual amount spent on food for the visit up to a
26 maximum of fifty dollars (\$50) for visits that include the inmate
27 and one visitor, seventy dollars (\$70) for visits that include the
28 inmate and two or three visitors, and eighty dollars (\$80) for visits
29 that include the inmate and four or more visitors.

30 (n) ~~Any compensatory~~ *Compensatory* or punitive damages
31 awarded by trial or settlement to ~~any inmate, parolee, person placed~~
32 ~~on postrelease community supervision pursuant to Section 3451,~~
33 ~~or defendant on mandatory supervision imposed pursuant to~~
34 ~~subparagraph (B) of paragraph (5) of subdivision (h) of Section~~
35 ~~1170, a state prison inmate, a county jail prisoner, or a postrelease~~
36 *offender* in connection with a civil action brought against ~~any a~~
37 federal, state, or local jail, prison, or correctional facility, or any
38 official or agent thereof, shall be paid directly, after payment of
39 reasonable attorney's fees and litigation costs approved by the
40 court, to satisfy any outstanding restitution orders or restitution

1 fines against that person. The balance of ~~any~~ *the* award shall be
2 forwarded to the payee after full payment of all outstanding
3 restitution orders and restitution fines, subject to subdivisions (e)
4 and (i). The Department of Corrections and Rehabilitation shall
5 make all reasonable efforts to notify the victims of the crime for
6 which that person was convicted concerning the pending payment
7 of any compensatory or punitive damages. For ~~any a county jail~~
8 ~~prisoner punished by imprisonment in a county jail pursuant to~~
9 ~~subdivision (h) of Section 1170~~, the agency is authorized to make
10 all reasonable efforts to notify the victims of the crime for which
11 that person was convicted concerning the pending payment of any
12 compensatory or punitive damages.

13 (o) (1) Amounts transferred to the California Victim
14 Compensation and Government Claims Board for payment of
15 direct orders of restitution shall be paid to the victim within 60
16 days from the date the restitution revenues are received by the
17 California Victim Compensation and Government Claims Board.
18 If the restitution payment to a victim is less than fifty dollars (\$50),
19 then payment need not be forwarded to that victim until the
20 payment reaches fifty dollars (\$50) or until 180 days from the date
21 the first payment is received, whichever occurs sooner.

22 (2) ~~In any case in which~~ *When* a victim cannot be located, the
23 restitution revenues received by the California Victim
24 Compensation and Government Claims Board on behalf of the
25 victim shall be held in trust in the Restitution Fund until the end
26 of the state fiscal year subsequent to the state fiscal year in which
27 the funds were deposited or until the time that the victim has
28 provided current address information, whichever occurs sooner.
29 Amounts remaining in trust at the end of the specified period of
30 time shall revert to the Restitution Fund.

31 (3) (A) ~~Any~~ *A* victim failing to provide a current address within
32 the period of time specified in paragraph (2) may provide
33 documentation to the Department of Corrections and Rehabilitation,
34 which ~~in turn~~ shall *then* verify that moneys were, in fact, collected
35 on behalf of the victim. Upon receipt of that verified information
36 from the Department of Corrections and Rehabilitation, the
37 California Victim Compensation and Government Claims Board
38 shall transmit the restitution revenues to the victim in accordance
39 with the provisions of subdivision (c) or (h).

(B) ~~Any~~ A victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the agency designated by the board of supervisors in the county where the *county jail* prisoner ~~punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170~~ is incarcerated, which ~~in turn~~ then may verify that moneys were, in fact, collected on behalf of the victim. Upon receipt of that verified information from the agency, the California Victim Compensation and Government Claims Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (d) or (h).

(p) For purposes of this section, the following definitions shall apply:

(1) "County jail prisoner" means a person punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170.

(2) "Postrelease offender" means a person who is on parole, is placed on postrelease community supervision pursuant to Section 3451, is on mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, or a person who has served a completed term in county jail and been released.

(3) "State prison inmate" means a person sentenced to and serving time in a state prison.

SECTION 1. ~~Section 1203.2 of the Penal Code is amended to read:~~

~~1203.2. (a) At any time during the period of supervision of a person (1) released on probation under the care of a probation officer pursuant to this chapter, (2) released on conditional sentence or summary probation not under the care of a probation officer, (3) placed on mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, (4) subject to revocation of postrelease community supervision pursuant to Section 3455, or (5) subject to revocation of parole supervision pursuant to Section 3000.08, if any probation officer, parole officer, or peace officer has probable cause to believe that the supervised person is violating any term or condition of his or her supervision, the officer may, without warrant or other process and at any time until the final disposition of the case, rearrest the supervised person and bring him or her before the court or the court may, in its discretion, issue a warrant for his or her rearrest. Upon such~~

1 rearrest, or upon the issuance of a warrant for rearrest the court
2 may revoke and terminate the supervision of the person if the
3 interests of justice so require and the court, in its judgment, has
4 reason to believe from the report of the probation or parole officer
5 or otherwise that the person has violated any of the conditions of
6 his or her supervision, has become abandoned to improper
7 associates or a vicious life, or has subsequently committed other
8 offenses, regardless whether he or she has been prosecuted for
9 such offenses. However, the court shall not terminate parole
10 pursuant to this section. Supervision shall not be revoked for failure
11 of a person to make restitution imposed as a condition of
12 supervision unless the court determines that the defendant has
13 willfully failed to pay and has the ability to pay. Restitution shall
14 be consistent with a person's ability to pay. The revocation,
15 summary or otherwise, shall serve to toll the running of the period
16 of supervision.

17 (b) (1) Upon its own motion or upon the petition of the
18 supervised person, the probation or parole officer or the district
19 attorney of the county in which the person is supervised, the court
20 may modify, revoke, or terminate supervision of the person
21 pursuant to this subdivision, except that the court shall not
22 terminate parole pursuant to this section. A person supervised on
23 parole or postrelease community supervision pursuant to Section
24 3455 may not petition the court pursuant to this section for early
25 release from supervision, and a petition under this section shall
26 not be filed solely for the purpose of modifying parole. Nothing
27 in this section shall prohibit the court from modifying parole when
28 acting on its own motion or a petition to revoke parole. The court
29 shall give notice of its motion, and the probation or parole officer
30 or the district attorney shall give notice of his or her petition to the
31 supervised person, his or her attorney of record, and the district
32 attorney or the probation or parole officer, as the case may be. The
33 supervised person shall give notice of his or her petition to the
34 probation or parole officer and notice of any motion or petition
35 shall be given to the district attorney in all cases. The court shall
36 refer its motion or the petition to the probation or parole officer.
37 After the receipt of a written report from the probation or parole
38 officer, the court shall read and consider the report and either its
39 motion or the petition and may modify, revoke, or terminate the

1 supervision of the supervised person upon the grounds set forth in
2 subdivision (a) if the interests of justice so require.

3 (2) ~~The notice required by this subdivision may be given to the~~
4 ~~supervised person upon his or her first court appearance in the~~
5 ~~proceeding. Upon the agreement by the supervised person in~~
6 ~~writing to the specific terms of a modification or termination of a~~
7 ~~specific term of supervision, any requirement that the supervised~~
8 ~~person make a personal appearance in court for the purpose of a~~
9 ~~modification or termination shall be waived. Prior to the~~
10 ~~modification or termination and waiver of appearance, the~~
11 ~~supervised person shall be informed of his or her right to consult~~
12 ~~with counsel, and if indigent the right to secure court appointed~~
13 ~~counsel. If the supervised person waives his or her right to counsel~~
14 ~~a written waiver shall be required. If the supervised person consults~~
15 ~~with counsel and thereafter agrees to a modification, revocation,~~
16 ~~or termination of the term of supervision and waiver of personal~~
17 ~~appearance, the agreement shall be signed by counsel showing~~
18 ~~approval for the modification or termination and waiver.~~

19 (e) ~~Upon any revocation and termination of probation the court~~
20 ~~may, if the sentence has been suspended, pronounce judgment for~~
21 ~~any time within the longest period for which the person might have~~
22 ~~been sentenced. However, if the judgment has been pronounced~~
23 ~~and the execution thereof has been suspended, the court may revoke~~
24 ~~the suspension and order that the judgment shall be in full force~~
25 ~~and effect. In either case, the person shall be delivered over to the~~
26 ~~proper officer to serve his or her sentence, less any credits herein~~
27 ~~provided for.~~

28 (d) ~~In any case of revocation and termination of probation,~~
29 ~~including, but not limited to, cases in which the judgment has been~~
30 ~~pronounced and the execution thereof has been suspended, upon~~
31 ~~the revocation and termination, the court may, in lieu of any other~~
32 ~~sentence, commit the person to the Department of Corrections and~~
33 ~~Rehabilitation, Division of Juvenile Facilities if he or she is~~
34 ~~otherwise eligible for such commitment.~~

35 (e) ~~If probation has been revoked before the judgment has been~~
36 ~~pronounced, the order revoking probation may be set aside for~~
37 ~~good cause upon motion made before pronouncement of judgment.~~
38 ~~If probation has been revoked after the judgment has been~~
39 ~~pronounced, the judgment and the order which revoked the~~
40 ~~probation may be set aside for good cause within 30 days after the~~

1 court has notice that the execution of the sentence has commenced.
2 If an order setting aside the judgment, the revocation of probation,
3 or both is made after the expiration of the probationary period, the
4 court may again place the person on probation for that period and
5 with those terms and conditions as it could have done immediately
6 following conviction.

7 (f) As used in this section, the following definitions shall apply:

8 (1) “Court” means a judge, magistrate, or revocation hearing
9 officer described in Section 71622.5 of the Government Code.

10 (2) “Probation officer” means a probation officer as described
11 in Section 1203 or an officer of the agency designated by the board
12 of supervisors of a county to implement postrelease community
13 supervision pursuant to Section 3451.

14 (3) “Supervised person” means a person who satisfies any of
15 the following:

16 (A) He or she is released on probation subject to the supervision
17 of a probation officer.

18 (B) He or she is released on conditional sentence or summary
19 probation not under the care of a probation officer.

20 (C) He or she is subject to mandatory supervision pursuant to
21 subparagraph (B) of paragraph (5) of subdivision (h) of Section
22 1170.

23 (D) He or she is subject to revocation of postrelease community
24 supervision pursuant to Section 3455.

25 (E) He or she is subject to revocation of parole pursuant to
26 Section 3000.08.

27 (g) Nothing in this section affects the authority of the supervising
28 agency to impose on a person intermediate sanctions, including
29 flash incarceration, if the person is subject to any of the following:

30 (1) Parole supervision pursuant to Section 3000.08.

31 (2) Postrelease community supervision pursuant to Part 3
32 (commencing with Section 3450) of Title 2.05.

33 (3) Court-ordered probation.

34 (4) Mandatory supervision pursuant to paragraph (5) of
35 subdivision (h) of Section 1170.

36 SEC. 2. Section 1203.35 is added to the Penal Code,
37 immediately following Section 1203.3, to read:

38 1203.35. (a) In any case where the court grants probation or
39 imposes a sentence that includes mandatory supervision pursuant
40 to paragraph (5) of subdivision (h) of Section 1170, the court shall

1 authorize the agency responsible for that probation or mandatory
2 supervision to use flash incarceration for any violation of the
3 conditions of probation or mandatory supervision if, at the time
4 of granting probation or ordering mandatory supervision, the court
5 obtains from the defendant a waiver to a court hearing prior to the
6 imposition of a period of flash incarceration.

7 (b) For purposes of this chapter, “flash incarceration” is a period
8 of detention in a county jail due to a violation of an

9 offender’s conditions of probation or mandatory supervision.
10 The length of the detention period may range between one and 10
11 consecutive days. Flash incarceration is a tool that may be used
12 by each county agency responsible for probation or mandatory
13 supervision. Shorter, but if necessary more frequent, periods of
14 detention for violations of an offender’s probation or mandatory
15 supervision shall appropriately punish an offender while preventing
16 the disruption in a work or home establishment that typically arises
17 from longer term revocations.

18 (c) This section shall not apply to any defendant sentenced
19 pursuant to Section 1210.1.

20 (d) This section shall remain in effect only until January 1, 2018,
21 and as of that date is repealed, unless a later enacted statute, that
22 is enacted before January 1, 2018, deletes or extends that date.

23 SEC. 3. Section 4019 of the Penal Code is amended to read:

24 4019. (a) The provisions of this section shall apply in all of
25 the following cases:

26 (1) When a prisoner is confined in or committed to a county
27 jail, industrial farm, or road camp, or any city jail, industrial farm,
28 or road camp, including all days of custody from the date of arrest
29 to the date on which the serving of the sentence commences, under
30 a judgment of imprisonment, or a fine and imprisonment until the
31 fine is paid in a criminal action or proceeding.

32 (2) When a prisoner is confined in or committed to the county
33 jail, industrial farm, or road camp or any city jail, industrial farm,
34 or road camp as a condition of probation after suspension of
35 imposition of a sentence or suspension of execution of sentence,
36 in a criminal action or proceeding.

37 (3) When a prisoner is confined in or committed to the county
38 jail, industrial farm, or road camp or any city jail, industrial farm,
39 or road camp for a definite period of time for contempt pursuant
40 to a proceeding, other than a criminal action or proceeding.

1 ~~(4) When a prisoner is confined in a county jail, industrial farm,~~
2 ~~or road camp, or a city jail, industrial farm, or road camp following~~
3 ~~arrest and prior to the imposition of sentence for a felony~~
4 ~~conviction.~~

5 ~~(5) When a prisoner is confined in a county jail, industrial farm,~~
6 ~~or road camp, or a city jail, industrial farm, or road camp as part~~
7 ~~of custodial sanction imposed following a violation of postrelease~~
8 ~~community supervision or parole.~~

9 ~~(6) When a prisoner is confined in a county jail, industrial farm,~~
10 ~~or road camp, or a city jail, industrial farm, or road camp as a result~~
11 ~~of a sentence imposed pursuant to subdivision (h) of Section 1170.~~

12 ~~(b) Subject to the provisions of subdivision (d), for each four-day~~
13 ~~period in which a prisoner is confined in or committed to a facility~~
14 ~~as specified in this section, one day shall be deducted from his or~~
15 ~~her period of confinement unless it appears by the record that the~~
16 ~~prisoner has refused to satisfactorily perform labor as assigned by~~
17 ~~the sheriff, chief of police, or superintendent of an industrial farm~~
18 ~~or road camp.~~

19 ~~(c) For each four-day period in which a prisoner is confined in~~
20 ~~or committed to a facility as specified in this section, one day shall~~
21 ~~be deducted from his or her period of confinement unless it appears~~
22 ~~by the record that the prisoner has not satisfactorily complied with~~
23 ~~the reasonable rules and regulations established by the sheriff,~~
24 ~~chief of police, or superintendent of an industrial farm or road~~
25 ~~camp.~~

26 ~~(d) Nothing in this section shall be construed to require the~~
27 ~~sheriff, chief of police, or superintendent of an industrial farm or~~
28 ~~road camp to assign labor to a prisoner if it appears from the record~~
29 ~~that the prisoner has refused to satisfactorily perform labor as~~
30 ~~assigned or that the prisoner has not satisfactorily complied with~~
31 ~~the reasonable rules and regulations of the sheriff, chief of police,~~
32 ~~or superintendent of any industrial farm or road camp.~~

33 ~~(e) No deduction may be made under this section unless the~~
34 ~~person is committed for a period of four days or longer.~~

35 ~~(f) It is the intent of the Legislature that if all days are earned~~
36 ~~under this section, a term of four days will be deemed to have been~~
37 ~~served for every two days spent in actual custody.~~

38 ~~(g) The changes in this section as enacted by the act that added~~
39 ~~this subdivision shall apply to prisoners who are confined to a~~

1 ~~county jail, city jail, industrial farm, or road camp for a crime~~
2 ~~committed on or after the effective date of that act.~~

3 ~~(h) The changes to this section enacted by the act that added~~
4 ~~this subdivision shall apply prospectively and shall apply to~~
5 ~~prisoners who are confined to a county jail, city jail, industrial~~
6 ~~farm, or road camp for a crime committed on or after October 1,~~
7 ~~2011. Any days earned by a prisoner prior to October 1, 2011,~~
8 ~~shall be calculated at the rate required by the prior law.~~

9 ~~(i) This section shall not apply, and no credits may be earned,~~
10 ~~for periods of flash incarceration imposed pursuant to Section~~
11 ~~1203.35, 3000.08, or 3454.~~

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